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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,480	02/27/2002	Kazuyuki Miya	L9289.02130	3434
24257	7590	03/25/2005	EXAMINER	
STEVENS DAVIS MILLER & MOSHER, LLP			ISMAIL, SHAWKI SAIF	
1615 L STREET, NW			ART UNIT	PAPER NUMBER
SUITE 850				
WASHINGTON, DC 20036			2155	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/069,480	MIYA ET AL.	
	Examiner Shawki S Ismail	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 February 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) 1 and 8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 2-27-2002 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) All    b) Some \* c) None of:  
         1. Certified copies of the priority documents have been received.  
         2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. Claims 1-11 are presented for examination.

Applicant's claim for foreign priority is acknowledged.

References in applicant's IDS form 1449 have been considered.

### ***Drawings***

2. Figure 1, 2A, 2B, 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitations

"the transmit order" in line 6,

"the uplink" in line 7,  
"the base station selection information" in line 8,  
"the downlink" in line 9, and  
"the transmit order" in line 10.

There is insufficient antecedent basis for these limitations in the claim.

5. Claim 8 recites "restriction for synchronization," it is unclear what is meant by restriction for synchronization.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over International Publication Number **WO 98/25432** hereinafter (**432 application**) and in view of Applicant Admitted Prior Art hereinafter (**AAPA**).

8. As to claim 1, 432 application teaches a method for processing duplicate communications wherein during downlink soft handoff transmission, the frame sequence numbers (packet number) are compared and in response to the result of comparison, the frames are processed (col. 4, line 32 – col. 5, line 8).

432 application does not explicitly teach wherein a communication terminal transmits base station selection information that the communication terminal selects.

AAPA teaches selection of a base station that actually transmits packets fast from a plurality of base stations (see page 3, lines 19-27).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teaching of AAPA into the 432 application in order to achieve fast packet transmission. By being able to choose the base station that will transmit~~s~~ packets at a faster rate from list of base stations allows the system to achieve fast packet transmission.

9. As to claim 2, 432 application teaches the fast packet transmission system according to claim 1, wherein only when a base station that transmits a downlink signal is switched with the base station selection information, the information to manage the transmit order is transmitted to the base station (page 7, lines 9-22).

10. As to claim 3, 432 application teaches the fast packet transmission system according to claim 1, wherein the information to manage the transmit order is at least one of a packet number and a check signal to be transmitted at a time a packet is received correctly (page 7, lines 9-22).

11. As to claim 4, 432 application teaches the fast packet transmission system according to claim 1, wherein the communication terminal transmits an adaptive modulation pattern with the information to manage the transmit order to the base station (page 10, line 28 - page 11, line 8).

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12. As to claim 5, 432 application teaches the fast packet transmission system according to claim 4, wherein only when a base station that transmits a downlink signal is switched with the base station selection information, the communication terminal apparatus transmits the adaptive modulation pattern with the information to manage the transmit order to the base station (page 10, line 28 - page 11, line 8).

13. As to claim 6, 432 application teaches the fast packet transmission system according to claim 4, wherein only when a base station that transmits a downlink signal is switched with the base station selection information and a repeat of a packet that is erroneous in last receiving the packet is requested to the switched base station, the communication terminal transmits the adaptive modulation pattern with the information to manage the transmit order to the base station (page 10, line 28 - page 11, line 8).

14. As to claim 7, 432 application teaches the fast packet transmission system according to claim 1, wherein the information to manage the transmit order is transmitted with transmit power higher than transmit power of other information (page 9, lines 19 - 32).

15. As to claim 8, 432 application teaches the fast packet transmission according to claim 1, wherein the base stations and a control station that controls the base stations are provided with a restriction for synchronization, and based on the restriction, the base stations perform transmission (page 7, lines 9-22).

16. As to claim 9 and 10, they contain similar limitation as in claims 1-8 above; therefore, they are rejected under the same rationale.

17. As to claim 11, 432 application teaches the communication terminal apparatus according to claim 10, wherein only when a base station that transmits a downlink signal is switched, the communication terminal apparatus transmits the information to manage the transmit order to the base stations (page 7, lines 9-22).

### ***Conclusion***

The Prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Jua et al., U.S Patent No. 5,655,219, relates to a wireless local area network (LAN) system including mobile terminal devices and base station devices between which bidirectional wireless communication is possible.
- b. Wallentin et al., U.S Patent No. 6,230,013 pertains to telecommunications, and particularly to any cellular/mobile telecommunications using diversity (soft) handover, such as occurs in spread spectrum or code division multiple access (CDMA) technology.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 571-272-3985. The examiner can normally be reached on M-F 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone

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number for the organization where this application or proceeding is assigned is  
703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shawki Ismail  
Patent Examiner  
March 21, 2005



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